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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,676	11/18/2003	Charles H. Williams	1265-001	4542
1009	7590	06/21/2005	EXAMINER	
KING & SCHICKLI, PLLC 247 NORTH BROADWAY LEXINGTON, KY 40507			ARK, DARREN W	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/715,676	Applicant(s) WILLIAMS, CHARLES H.	
	Examiner Darren W. Ark	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-18, 21-28, 30-33 and 35-37 is/are rejected.
- 7) ☒ Claim(s) 19, 20, 29 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Drawings

1. The drawings were received on 5/5/2005. These drawings are approved by the Examiner.

Claim Objections

2. Claims 16-20 are objected to because of the following informalities:

Claim 16, line 3, "a" should be inserted before "transverse support".

Claim 17, line 2, "an adjuster" should be "adjusters" and "length" should be changed to "lengths".

Claim 18, line 2, "an adjuster" should be changed to "adjusters" and "length" should be changed to "lengths".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 16, 21-28, 30-33, 35-37 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Daigle 5,803,519.

Daigle discloses an accessory support (14) with first and second supports (22, 24) and at least one transverse support (20, 28, 32); a base with first and second members (38, 40, 42, 44) and at least one transverse member (36, 50, 52), the base including a brace (56, 58) defining an adjustable aperture adapted for securing the base around a pedestal of a seat on the boat (56, 58 capable of being wrapped around pedestal), wherein the brace includes a fastener adapted to engage the pedestal (Velcro strap) and the support attaches to the base via at least one hinge (49, 51) and the first and second members extend beyond a point of intersection of the accessory support with the base (at hinges 49, 51 the lower portion of members 42, 44 extend past hinge pins), and the first and second opposed members (capable of contacting floor in position shown in Fig. 4), and the at least one transverse member substantially contact a floor of the boat when in the operational position (operational position not particularly defined, the device can be used in any of a number of positions that the device is capable of assuming).

In regard to claims 21, 23, 25-27, 30-33, and 36, Daigle discloses a base (16) including first and second members (lower ends of 42, 44); a brace (56, 58); plurality of accessory stations positioned on an accessory support (14) comprising a plurality of rod receptacles (30) atop a support (28); at least two braces (50, 52); the accessory support attaches to the base via at least one hinge (49, 51).

In regard to claims 28 and 35, Daigle discloses the stations comprise a plurality of receptacles (30) that support the rod in a way that the rod does not directly contact the support not the base (when positions of 14 & 16 are reversed in Fig. 4 with 30

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extending vertically, rods can be inserted therein such that they reside in each of the tubes 30 wherein a rod and reel combo with sufficient diameter would rest on top of the upper edge of a tube; device of Daigle merely has to be capable of performing the recited function).

In regard to claim 37, Daigle discloses the brace positioned on a first transverse member (36) and a second brace (54) positioned on a second transverse member (52).

5. Claims 16, 17, 21, 25-27, 30-32, 36 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Zawadzki 2,973,929.

Zawadzki discloses an accessory support (26) with first and second supports (28, 30, 34, 36) and a transverse support (32, 38); a base with first and second members (12, 14), at least one transverse member (16); a brace (54) defining an adjustable aperture (54 can be adjusted by hand since it is made of a material which can be bent, twisted, and drilled [see col. 1, lines 64-66]), the brace includes a fastener (inner surface of 54; fastener not being particularly claimed) adapted to engage the pedestal (about the circumference thereof), the support attaches to the base via at least one hinge (42), the first and second members extend beyond a point of intersection of the support with the base (see Figs. 1, 2, 4).

6. Claims 16, 21-27, 30-33, 36 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Koppel 4,479,322.

Koppel discloses an accessory support (13-15) with first and second supports (15) and a transverse support (14); a base with first and second members (6), at least one transverse member (5, 11), a brace (10) defining an adjustable aperture (fasteners

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holding 10 to 9 can be loosened or tightened to make the aperture defined by 10 to be smaller or bigger) wherein the brace includes a fastener adapted to engage the pedestal (fastener is not particular claimed therefore inner surface of 10 can contact the pedestal), the support attaches to the base via at least one hinge (16), the first and second members extend beyond a point of intersection of the support with the base (7), the first and second members and at least one transverse member substantially contact a floor of a boat when the holder is in the operational position (the floor of boats are not perfectly flat, typically there are attachments and features on the floor of a boat which cause an irregular surface to be presented).

In regard to claim 23, Koppel discloses at least two braces (9, 11 or 19).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 18, 22, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zawadzki 2,973,929 in view of Schaeffer 3,546,805.

In regard to claim 18, Zawadzki does not disclose the first and second members being adjustable in length. Schaeffer discloses the first and second members (3) being adjustable in length (via 11). It would have been obvious to a person of ordinary skill in the art to modify the first and second members of Zawadzki such that the first and

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second members are adjustable in length in view of Schaeffer in order to adjust the length of the base to the amount of space available for the base and provide the greatest stability in the device as possible.

In regard to claims 22 and 33, Zawadzki does not disclose the frame being a substantially rectangular frame defining a perimeter. Schaeffer discloses a base being a rectangular frame (1) with first and second transverse members (7, 15, or 69) extending in a direction perpendicular to the first and second members (3). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the base of Zawadzki such that the base is a substantially rectangular frame in view of Schaeffer in order to provide a wider base throughout that provides greater stability when supporting the rods.

9. Claims 17, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koppel 4,479,322.

Koppel does not disclose the first and second supports include an adjuster for adjusting the length of the first and second supports or the first and second members include an adjuster for adjusting the length of the first and second member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the first and second support and the first and second member such that they are adjustable in length, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art, and because allowing the first and second supports and first and second members to be adjustable would allow the device to be adjusted according to the space requirements in the usage environment in terms

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of height of the overall device and its footprint. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

Allowable Subject Matter

10. Claims 19, 20, 29, and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments filed 5/5/2005 have been fully considered but they are not persuasive.

In regard to applicant's argument that "Daigle...cross-brace 32 or cross-bar 50, fails to include any type of aperture....", the Examiner contends that now the strap (56, 58) is interpreted as being the brace.

In regard to applicant's argument that "Daigle...where the operational position is 180 degrees from the collapsed position...", the Examiner contends that the hinges and associated structure allow the device of Daigle achieve a position wherein the accessory support and base are at 90 degrees to each other.

In regard to applicant's argument that "Zawadzki fails to disclose...'brace defining an adjustable aperture adapted for securing said base around the pedestal of a seat on said boat...", the Examiner contends that the brace (54) of Zawadzki is indeed capable of being adjusted since it is made of a material that can be bent and twisted. Furthermore, it is capable of being secured around the pedestal of a seat on a boat

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since it defines a space therein which can receive a pedestal inside. There are no structural limitations being recited with regard to the brace which define over the Zawadzki patent.

In regard to applicant's argument that "Koppel does not disclose a 'brace defining an adjustable aperture and including a fastener...", the Examiner contends that the brace (10) can be adjusted by loosening or tightening the fasteners which hold the brace (10) to the base (5, 6, 9) and that a pedestal of a seat is capable of being received therein since no limitations according to the size or configuration of the aperture have been recited.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (571) 272-6885. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark
Primary Examiner
Art Unit 3643

DWA